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this Memorandum Decision shall not be
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**IN THE
COURT OF APPEALS OF INDIANA**

SIDNEY E. GATES,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 02A04-0605-CR-234
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0508-FB-125

January 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Sidney E. Gates appeals his conviction for robbery as a class B felony.¹

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On August 24, 2005, Ryan Tracy was working as a cashier at Penguin Point, a restaurant in Allen County. At approximately 1:30 p.m., Tracy observed two men, Justin Littlejohn and Gates, come into the restaurant and go into the men's restroom. Tracy recognized Littlejohn as a former employee of the restaurant. Anna Dale, another employee of Penguin Point, also noticed Littlejohn and Gates because she thought it was unusual that "[t]hey went straight to the bathroom." (Tr. 97). Tracy noted that Littlejohn was wearing dark pants and a white shirt, and Gates was wearing dark pants and an orange shirt. Dale observed that "one of them had an orange shirt, the other one had a white T-shirt," and one was wearing black pants, while the other was wearing blue jeans. (Tr. 105).

When Littlejohn and Gates exited the restroom, Tracy observed that they both had partially covered their faces, so that their noses and mouths were hidden, and each carried a gun. Gates then jumped over the counter and forced Tracy and Dale to open the cash register and put money in a bag. Littlejohn went to the door, where he grabbed a girl,

¹ Ind. Code § 35-42-5-1.

preventing her from leaving. He then went to the manager's desk, which was "kind of hidden in the corner" and began taking money out of the desk. (Tr. 62).

After Littlejohn and Gates left the restaurant, Tracy called 911 and provided a description of Littlejohn and Gates. Officers arrived shortly thereafter and began interviewing Tracy and Dale. Tracy informed the officers that she recognized one of the men, Littlejohn, as a former employee.

Approximately forty-five minutes following the robbery, an officer drove Tracy to Littlejohn's residence, where he and Gates had been arrested. While Tracy remained in the officer's vehicle, officers brought three men "out of the house one by one" (Tr. 65). Although he was wearing different clothes, Tracy identified Gates as one of the men who had robbed the restaurant.

An officer also drove Dale to Littlejohn's residence approximately one hour following the robbery. While Dale waited in the officer's vehicle, officers "brought out one guy at a time." (Tr. 111). Dale identified Gates as one of the men who had robbed the restaurant.

The State charged Gates with robbery on August 30, 2005. The trial court held a jury trial on February 28, 2006. During the trial, both Tracy and Dale identified Gates as one of them who had robbed the restaurant. The jury found Gates guilty as charged, and the trial court sentenced Gates to twelve years.

DECISION

Gates asserts that the evidence was insufficient to sustain his conviction for robbery. Specifically, Gates maintains that the evidence was insufficient "to prove

beyond a reasonable doubt that Gates was one of th[e] individuals” who robbed the restaurant. Gates’ Br. 4.

Our standard of review for sufficiency of the evidence is well settled. We will neither reweigh the evidence nor judge the credibility of witnesses. *Snyder v. State*, 655 N.E.2d 1238, 1240 (Ind. Ct. App. 1995). We examine only the evidence most favorable to the judgment along with all reasonable inferences to be drawn therefrom, and, if there is substantial evidence of probative value to support the conviction, it will not be set aside. *Id.* “A single eyewitness’s testimony is sufficient to sustain a conviction.” *Badelle v. State*, 754 N.E.2d 510, 543 (Ind. Ct. App. 2001), *trans. denied*.

Both Tracy and Dale identified Gates soon after the robbery and at trial as one of the men who robbed the restaurant. Accordingly, we find sufficient evidence to sustain Gates’ conviction.

Affirmed.

NAJAM, J., and FRIEDLANDER, J., concur.